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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,858	05/30/2001	Todd D. Andersen	P1065	8680

7590

12/30/2002

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EXAMINER

BRITTAIN, JAMES R

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 12/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/870,858

Applicant(s)

ANDERSEN ET AL.

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11, 15-19 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15, 17-19, 21, 23 and 24 is/are rejected.
- 7) ☒ Claim(s) 16 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Allowable Subject Matter***

The indicated allowability of claim 15 is withdrawn in view of the newly discovered reference(s) to Swan (US 4534089). Rejections based on the newly cited reference(s) follow.

Claims 16 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Priority***

If applicant desires priority under 35 U.S.C. 119(e) based upon a previously filed copending application, specific reference to the earlier filed application must be made in the instant application. This should appear as the first sentence of the specification following the title, preferably as a separate paragraph. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. \_\_\_\_\_" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

If the application is a utility or plant application filed on or after November 29, 2000, any claim for priority must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2) and (a)(5).

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This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A priority claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) a surcharge under 37 CFR 1.17(t), and (2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional. The petition should be directed to the Office of Petitions, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the jaw portions with the ridges as claimed in claim 1 with the further structure of "first and second contoured surfaces for engaging sheet material of a tarp positioned within the receiving area" (claim 10) and the contoured surfaces comprising "a plurality of discreet teeth formed on said first jaw portion; and a plurality of discreet sockets formed on second jaw portion for receiving said teeth therein; so that said sheet material of a tarp will be forced into said sockets by said teeth when said jaw portions are tightened thereon" (claim 11) that

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depends from claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 10, 11, 23 and 24 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 10 and 11 depend from claim 1 that describes the jaw portions as having inter-fitting ridges. This describes the species of figure 7. There is no further "first and second contoured surfaces for engaging sheet material of a tarp positioned within the receiving area" (claim 10). The only contoured surfaces are the ridges. The further language defining these contoured surfaces as "a plurality of discreet teeth formed on said first jaw portion; and a plurality of discreet sockets formed on second jaw portion for receiving said teeth therein; so that said sheet material of a tarp will be forced into said sockets by said teeth when said jaw portions are tightened thereon" (claim 11) is descriptive of the sockets and teeth of figures 2 and 3. The language in the specification so describing

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the species further confirms this language distinction established by applicant. The mixing of species structure is new matter. In regard to claim 23, the use of the expression "proximate said adjustment screw" (lines 14-15) lacks antecedent basis in the specification as filed as to the scope of the term "proximate" in regards to how far away from the screw the stop member can be. Also the limitation "substantially rigid" (claim 23, line 7) lacks antecedent basis in the specification as filed for the flexible material to also be "substantially rigid". The remaining claim is indefinite because it depends on a claim containing new matter.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 8-10, 15, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Swan (US 4534089).

Kelly (figures 1-4) teaches clamp structure for a tarpaulin including first and second opposing jaw portions, the jaw portions have first ends 25, 26 joined together and second ends 15, 16 that are spread apart so as to define a receiving area. There is a screw operator 52 with a wing nut 53 acting as a knob for bringing the jaws into engagement. The jaws 15, 16 are arcuately contoured for engaging sheet material of a tarpaulin positioned therebetween. The difference is that the jaws lack a plurality of transverse inter-fitting ridges formed on the first and second jaw portions, the inter-fitting

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ridges having rounded corners so as to avoid damaging the tarp. However, Swan (figures 9, 10) teaches clamp structure for flexible material such as tent, sheets or fabric including a plurality of transverse inter-fitting ridges 230, 231 with the corresponding ridge that fits within recess 232 formed on the first and second jaw portions, the inter-fitting ridges having rounded corners so as to avoid damaging the material and further having texturing in the form of serrations 230a, 231a, 223a, 225a that enhance the grip of the clamp on the material. It would have been obvious to modify the clamp of Kelly so that the clamp has a plurality of transverse inter-fitting ridges formed on the first and second jaw portions, the inter-fitting ridges having rounded corners so as to avoid damaging the tarp in view of Swan teaching clamp structure for flexible material such as tent, sheets or fabric including a plurality of transverse inter-fitting ridges 230, 231 with the corresponding ridge that fits within recess 232 formed on the first and second jaw portions, the inter-fitting ridges having rounded corners so as to avoid damaging the material and further having texturing in the form of serrations 230a, 231a, 223a, 225a that enhance the grip of the clamp on the material. As to claim 4, the use of a moldable material to form the jaws and living hinge would have been obvious in view of Swan teaching that plastic is a desirable material to use to grip material such as a tent or sheet. As to claim 10, it is not clear what structure is being claimed since the ridges are already claimed in claim 1 and there are no other contoured surfaces, so this structure is considered redundant to claim 1 and met by the combination of references as applied to claim 1.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Swan (US 4534089) as applied to claim 5 above, and further in view of Spencer (US 794561) or McCarthy (US 4917677).

Further modification of the clamp of Kelly such that the threaded shaft is received in a threaded bore would have been obvious in view of Spencer (figures 4, 5) that teaches the use of a threaded shaft 12 and mating threaded bore 16 in the jaw so as to draw the jaws 10 together as a simpler joining with fewer parts or McCarthy (figure 10) in which the bore 29 is internally threaded to receive the threaded shaft 30 of the bolt so as to draw the jaws together as a simpler joining with fewer parts. As to claim 7, the device of McCarthy suggests the use of hand manipulatable knob in the form of knurled member 31 and Spencer suggests the use of a knob in the hand manipulatable eye 13.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Swan (US 4534089) as applied to claim 2 above, and further in view of Cameron (US 5388313).

Further modification of the clamp of Kelly so as move the apertures 34, 35 to secure the clamp to a rope beyond the jaw portions would have been obvious in view of Cameron suggesting such a location in figure 10 so as to be easier to control the tarp.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Swan (US 4534089) and Cameron (US 5388313) as applied to claim 17 above, and further in view of Youngblood (US 714348).

Further modification of the clamp of Kelly so rather than positioning the opening beyond the jaws as suggested by Cameron, there is a hook located at that position



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would have been obvious in view of Youngblood (figure 2) which suggest hammock clamp structure with a hook 18 positioned beyond the clamp.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Swan (US 4534089) as applied to claim 10 above, and further in view of Holsey (US 969695).

Further modification of the clamp of Kelly so that there are discreet teeth on one jaw interfitting with sockets in the opposite jaw would have been obvious in view of Holsey (figures 1-4) teaching utilizing hemispherical protrusions 13 on one jaw interfitting within receiving sockets 14 on the opposite jaw as being a desirable configuration for holding sheet bag material securely without tearing.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (US 4097169) in view of Swan (US 4534089) as applied to claim 1 above, and further in view of James (US 3177542).

Further modification of the clamp of Kelly so that there is a stop member proximate the screw to inhibit the over drawing of the jaw faces together would have been obvious in view of James (figure 3) that utilizes stop members 39 for this purpose.

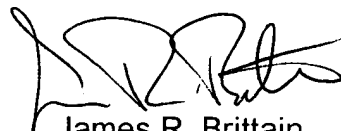
### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'J. R. Brittain', with a stylized flourish at the end.

James R. Brittain  
Primary Examiner  
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JRB  
December 24, 2002